

## **Kentucky Surplus Lines Affidavit Instructions**

**304.10-050 and 806 KAR 10:050** require that all licensed surplus lines brokers remit a Kentucky Surplus Lines Affidavit of Insurance Transactions (affidavit) to the Department of Insurance to report that an eligible insurance coverage has been placed (or exported) with a non-admitted insurer, or that a premium-bearing change has taken place to a previously-exported policy. The affidavit is a sworn statement, which must be electronically signed and submitted by the licensee, that both provides required information about the transaction and legally attests to the accuracy and truthfulness of that information.

### **A. What types of policy transactions must be submitted**

Surplus lines brokers are required to submit an affidavit for each of the following types of **premium-bearing** surplus lines transactions:

- **New Business** policy issuance
- **Renewal** policy issuance
- **Endorsement**
- **Cancellation**
- **Reinstatement**
- **Audit**

Please note that affidavits are **not** required to report surplus lines policy transactions which do not affect the policy premium (for example, name or address changes).

### **B. When affidavits must be submitted**

As required under **806 KAR 10:50§2**, electronic affidavits must be submitted:

- within **60 days** of the effective date of the transaction if coverage is written through a foreign insurer, or
- within **90 days** of the effective date of the transaction if coverage is written through an alien insurer.

Failure to submit an electronic affidavit within the required time period will result in the application of a late-reporting fee of **\$100** as provided under **KRS 304.99-085(1)**.

### **\*IMPORTANT\***

**A broker's statutory surplus lines transaction reporting responsibilities are independent of that broker's or business entity's internal accounting practices.** Prior to electronic filing of Kentucky Surplus Lines Affidavits, brokers were required to attach a photocopy of the relevant policy document (such as a declarations page or endorsement) to a completed paper affidavit form. This requirement obliged the broker to wait to file an affidavit until that document had been received from the carrier, which could take a

number of weeks or even months. For that reason, many surplus lines operations traditionally waited to submit affidavits at the same time a transaction was invoiced, which often resulted in delinquent affidavits and exposed the broker to late-reporting penalties.

When electronic filing of surplus lines affidavits was introduced in Kentucky, the requirements for both supporting documentation and notarization of the affidavit form are satisfied by setting up an eServices account. In effect, a broker now is able to submit any surplus lines affidavit as long as they have the following information:

- Insured Name
- Insured Address
- Policy Type
- Transaction Type
- Surplus Lines Carrier
- Policy Number
- Inception Date
- Expiration Date
- Transaction Effective Date
- Premium
- Policy Fees

If a broker is assessed late reporting fees and the above information was NOT available within the 60 or 90 day reporting period required by **806 KAR 10:50§2**, the broker may submit his/her dispute in writing of late reporting fees to [DOI.SurplusLines@ky.gov](mailto:DOI.SurplusLines@ky.gov) by documenting the transaction for which fees have been assessed. This documentation, such as the declaration page or endorsement, must show a processing date after the 60 or 90 day applicable period in order for the Department of Insurance to consider waiving the late reporting fees.

### **C. How to submit affidavits**

Pursuant to **KRS 304.10-050** and **806 KAR 10:50§3**, all affidavits must be filed electronically through the Department's **eServices web portal**. ***For security purposes every broker must establish his/her own eServices account.*** Affidavits may only be entered into eServices under the logon ID of a licensed **INDIVIDUAL** surplus lines broker; the Department neither requires nor permits licensed business entities such as agencies or managing general agencies to submit affidavits.

After a licensed surplus lines broker has set up his/her eServices account, select **Surplus Lines Affidavit** from the menu of available services. Each screen must be completed in its entirety before advancing to the next screen. When all screens have been completed, the affidavit is sent by clicking on **Submit Affidavit**.